IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.203 OF 1998
WITH
CA NO. 9708/03 WITH CA NO.1559/98 WITH CA NO.4522/99 WITH CA NO.2492/99 WITH CA NO.3894/03
AND
CA NO.8127/03 IN FAST.NO.18449/97

The Municipal Council,
Latur, Through It's Chief
Officer, = **APPELLANT**
(orig. acquiring body)

VERSUS

1. Chandrakant Mahadeoppa Majage
Age: 45 years, Occ. Business,
R/o. Majage Nagar, Latur

Chandrakant Mahadeo Majage,
Deceased through legal heirs,

1A) Smt. Kanchan w/o.
Chandrakant Majage,
Age: 42 years,
Occu. Agriculture,

1B) Nishikant S/o.
Chandrakant Majage,
Age: 21 years,
Occu. Business,

1C) Jyoti d/o Chandrakant
Majage,
Age: 21 years,
Occu. Student,

1D) Swati d/o. Chandrakant
Majage,
Age: 19 years,
Occu. Student,

1E) Priti d/o. Chandrakant
Majage
Age 14 years, Minor,

under guardianship of
her real mother
Respondent No.1A.

Respondent Nos. 1A to
1E are resident of
Majagenagar, Kawa
Road, Latur Tq.
and Dist. Latur

= **RESPONDENTS**
(LR's of R.No.1)

2. Shashikant Mahadeoppa Majage
Age: 32 years, Occu. Business,
R/o. Majagenagar, Latur

3. The State of Maharashtra
Through Collector, Latur = **RESPONDENTS**
(Resp.Nos.1 & 2 orig. claimants. No.3 orig. Respondent)

Shri A.V. Hon Adv. h/f. Shri V.D. Hon, Senior Advocate for Appellants;
Shri P.K. Joshi, Advocate for Respondent No.2;
Shri N.T. Bhagat, AGP for Resp.No.3/State.

CORAM : P.R.BORA, J.

RESERVED ON : 5th May,2017
PRONOUNCED ON: 5th July,2017

JUDGMENT:

1) Heard learned counsel appearing for the respective parties.

2) Present appeal is filed against Judgment and Award passed in LAR No.272/1988 by Joint

Civil Judge, Senior Division, Latur on 2nd May, 1997. The aforesaid Reference Application was filed by present Respondent Nos. 1 & 2 (herein after referred to as the claimants) for enhancement in the amount of compensation, as was offered by the Land Acquisition Officer, vide the Award dated 9th July, 1987.

3) The lands, which are the subject matter of the present appeal, were acquired by the Appellant – Municipal Council, as it then was, for Development Plan Kawa Road (for short Development Plan Kawa road). The portion to the extent of 4540 sq. mtrs was acquired out of Survey No. 148; whereas portion admeasuring 3744 sq.mtrs was acquired out of Survey No.149, both situated at Latur. Towards acquisition of both the aforesaid lands, the claimants were offered nominal compensation of Rupee 1/- each by the Land Acquisition Officer in the award passed under Section 11 of the Land Acquisition Act,1894 (for short, the Act). Notification under Section

126(4) of the Maharashtra Regional Town Planning Act, 1966 (for short, the MRTP Act) was published on 11th July, 1985. The Land Acquisition Officer has paid advance compensation to the claimants on 4.12.1985 and 24.12.1985 to the extent of Rs.2,09,610/- and thereafter while passing the award under Section 11, nominal compensation of Rupee 1/- each was offered to the claimants as noted by me herein above. Dissatisfied with the amount of compensation so offered, the Reference Application was preferred by the claimants under Section 18 of the Act to the Collector, Latur, who in turn forwarded the same to the Civil Court at Latur (hereinafter referred to as the Reference Court) for adjudication.

4) The claimants had claimed the compensation of their acquired lands @ Rs.50/- per sq.ft. The demand so made by the claimants was resisted by the acquiring body, i.e. appellant – Municipal Council on the ground that the acquired land was already shown as

Development Plan road in the lay out sanctioned of the survey numbers, of which the acquired lands were part and parcel. As such, according to the Municipal Council, the claimants were not entitled for any compensation in respect of the acquired area, which was shown for road in the said layout. It was the further contention of the appellant that while obtaining sanction to the layouts pertaining to Survey No.148 and Survey No.149, the claimants had executed an agreement in favour of the appellant to hand over the possession of the roads shown in the said layouts and have also further agreed not to claim the market price for the said portion of land.

5) In order to substantiate their claim, one of the claimants deposed before the Court on oath and three more witnesses were examined by the claimants. The claimants also did place on record some sale-instances. One Shri Madhusudan Chintaman Khapale, who was serving as Town Planner at Latur at the relevant time, was

examined as its witness by the Municipal Council. The learned Reference Court, after having assessed the oral and documentary evidence brought before it, partly allowed the LAR. The Reference Court rejected the contention of the Municipal Council that the claimants were not entitled for any compensation of the acquired lands in view of the agreement executed by them on 9.9.1982 and 20.8.1984. The Reference Court enhanced the amount of compensation by determining the market value of the acquired lands @ Rs.25/- per sq.ft. and also awarded the other statutory benefits to the claimants as are prescribed under the provisions of the Act. Aggrieved by, the Municipal council has filed the present appeal.

6) Shri V.D.Hon, learned Senior Counsel appearing for the appellant, assailed the impugned Judgment and Award on various grounds. The learned Senior Counsel, inviting my attention to the agreements dated 9.9.1982 and 20.8.1984

(Exhibits 46 and Exh. 47) executed by the claimants in favour of the appellant, submitted that vide the said agreements, when the claimants had agreed not to claim any compensation, they were estopped from making any demand for compensation on account of acquisition of the subject lands for the purpose of Development Plan Kawa Road. Learned Senior Counsel, referring to and relying upon The Standardized Building Bye-laws of the Development Control Rules (for short, the D.C.Rules) and more particularly clauses 14(1); 14(2) and 14(3) thereof, submitted that the claimants were duty bound to handover the possession and title of the spaces kept open in the layout sanctioned by the appellant for roads, gardens, playground etc. in favour of the Municipal council on nominal compensation of Rupee 1/-. The learned Senior Counsel further submitted that even otherwise, as per the provisions of the MRTP Act, ownership of the roads and open spaces can be transferred in favour of the Municipal Council without undertaking the acquisition proceedings. The learned Senior Counsel submitted that the Reference Court has utterly failed in appreciating the aforesaid aspect. The learned Senior Counsel submitted that the Reference Court has misconstrued the provisions of the Maharashtra Municipalities Act, 1965; MRTP Act, 1966 as well as the Land Acquisition Act, 1894. The learned Senior Counsel submitted that the Reference Court has also failed in appreciating the provisions under the Standardised Building Bye-laws and Development Control Rules for A-class Municipal Councils.

7) The learned Senior Counsel criticized the impugned award on the quantum also. He submitted that even if it is accepted that the claimants were entitled to receive compensation, the market value determined of the acquired lands by the Reference Court is apparently on higher side though there is no sufficient evidence in that regard. The learned Senior Counsel

submitted that the Reference Court has completely ignored that the claimants themselves had sold the plots out of the same Survey Nos. i.e.148 and 149 @ less than Rs.10/- per sq.ft. and as such, in no case, the Reference Court could have determined the market value of the subject lands @ more than Rs.10/-per sq.ft. The learned Senior Counsel therefore prayed for setting aside the impugned Judgment and Award.

8) Shri P.K.Joshi, learned Counsel appearing for the Respondents – claimants, supported the impugned Judgment and Award. The learned Counsel submitted that the Reference Court has rightly held that if at all there was any agreement executed by the claimants in favour of the appellant Municipal Council, it was in respect of the internal roads and open spaces and was not relating to the Development Plan road for which the subject lands were acquired. The learned counsel further submitted that the Reference Court has determined the market value

comparatively on lower side than the expectations of the claimants. The learned counsel submitted that the impugned Judgment and award does not require any interference. The learned Counsel, therefore, prayed for dismissal of the appeal.

9) The Judgment and Award appealed against is challenged mainly on two grounds; first is that the appellant Municipal Council was not liable to pay any compensation to the claimants in view of the provisions under the Municipality Act, M.R.T.P. Act and the D.C. Rules as well as agreements executed by the claimants in favour of the Municipal Council, thereby waiving their right to claim any compensation as against the space in the lay-outs shown reserved for Development Plan Road. Second ground is that compensation as awarded is unreasonable, which is, in fact, an alternative submission. Point of limitation was also raised before the Reference Court, however, the same was not pressed in the present appeal.

10) The learned Reference Court had framed the following two issues as Issue Nos.2 and 3, having regard to the objections raised by the Municipal Corporation.

> "2. Whether respondent proves that claimants are estopped from claiming enhance compensation of the acquired land in view of the agreement executed by claimants on 9.9.82 and 20.8.84 in favour of Administrator of Municipal Council, Latur ?
>
> 3. Whether respondent proves that claimants had left the space of D.P. road as shown in lay out plan of Latur town and hence not entitled for claiming compensation ?

11) The Reference Court has answered both the issues in negative. The reasons of which are assigned in para Nos.10 to 14 of the impugned judgment. I did not find any error in the reasons as are provided by the learned Reference Court.

12) The concerned portions of the lands

Survey Nos. 148 and Survey No.149 were admittedly acquired for the purpose of Development Plan Kawa Road. It is not in dispute that a notification under Section 126(4) of the MRTP Act read with Section 6 of the Land Acquisition Act, in that regard was published on 11th July, 1985. While passing the Award under Section 11 of the Act, the Special Land Acquisition Officer, relying upon certain agreements allegedly executed by the owners of the said lands and referring to the provisions of the Maharashtra Municipalities Act, MRTP Act and Development Control Rules, offered a nominal compensation of Rupee 1/- for the said lands and did not assess the compensation as per the market value of the said lands on the date of acquisition.

13) I have carefully perused the contents of the agreements dated 9.9.1982 and 20.8.1984. The said agreements in no way can be interpreted to mean that the land owners of the acquired lands were dis-entitled from claiming due compensation

of their lands acquired for the purpose of Development Plan Kawa Road, fact apart that, as has been observed by the Reference Court, neither the said agreements are duly proved by the acquiring body nor there is any evidence on record to show that the said agreements were acted upon.

14) The claimants have not disputed that the layout of Survey No. 148 was sanctioned on 16th April, 1982 and layout of Survey No. 149 was sanctioned on 16.11.1984. It is further not in dispute that in the said sanctioned layouts, the claimants have left certain spaces open for the purposes of internal road, garden, playground and other public utilities purposes. It is further not in dispute that in the said layouts, Development Plan road is also shown by the claimants. It was and is, therefore, the contention of the Municipal Council that since the Development Plan road was already shown in the layout plans of Survey Nos. 148 and 149 and

when the agreements were executed by the claimants before getting sanction to the said layouts that the spaces left open in the said layouts for the purposes of road etc. will be handed over to the Municipal Council by accepting nominal compensation of Rupee 1/-, the claimants were not entitled to claim any more compensation.

15) The contention so raised on behalf of the Municipal Council is liable to be rejected for plural reasons. Firstly that none of the agreements allegedly executed on 9.9.1982 and 20.8.1984 contain any reference as about the Development Plan road. Moreover, no such agreement is in existence in respect of Survey no. 149. Both the aforesaid agreements are in reference to only Survey No. 148. Secondly, the Development Control Rule 14:3, which has been much emphasized to urge that the claimants were under obligation to handover the possessions of the space reserved for Development Plan road by accepting nominal compensation of Rupee 1/-,

pertains only to the internal roads and open spaces in the sanctioned layout and does not take in its sweep the space left open for the Development Plan road.

16) Moreover, as was pointed out by Shri PK Joshi, learned Counsel appearing for the claimants, no law exists under which even ownership in open space under layout could be vested or transferred to the Municipal Council free of costs. The learned Counsel referred to the judgment of the Division Bench of this Court in the case of *Vrajlal Jinabhai Patel Vs. State of Maharashtra – 2003 (3) Mh.L.J. 215.* It was the contention raised in that matter that on passing of the layout, the open space automatically vests in the Municipal Council. The Division Bench, however, held the said contention to be untenable and ruled that, no law exists under which ownership in open space under the layout could be vested or transferred to the Municipal Council. In the said judgment, the Division bench has

referred to the Standardized Building Bye-laws and Development Control Rules and more particularly to Rule 14:2 and Rule 14:3. In para 7 of the said judgment, the Division Bench has observed thus,

> "Rule 14 appears to have been framed in furtherance of Section 183 of the Act which relates to laying out or making of a new streets. It nowhere provides for the open spaces. Therefore, the power, if any, of acquiring the land under the streets is only contemplated under section 183. Acquisition of open spaces is not contemplated under section 183. Rule 14.3 which is a delegated legislation cannot, confer a power of acquisition of the open space under the lay out. Under Article 300-A of the Constitution of India, no person shall be deprived of his property save by authority of law. The authority of law means by or under any law made by a competent legislature. No law made by the legislature was shown to us under which the ownership in the open space could be vested or transferred to the Municipal Council whether by payment of compensation of Re. 1/- or otherwise. In the circumstances, we reject the alternative contention of Shri Joshi that the open space under the layout would be vested in the Municipality on payment of compensation of Re.1/-."

17) Shri Joshi, learned Counsel, referred to one more judgment subsequently delivered by the same Division Bench in the case of *State of Maharashtra Vs. Bhimashankar Sidramappa Chippa – 2009 (5) Mh.L.J. 76* wherein, it is held that, -

> "No existing law empowers the planning authority or the Chief Executive Officer of any municipality or any municipal corporation to impose a condition that an open land in a layout required to be kept as such for the benefit of the plot holders in the layout or the general public would vest in the planning authority or the municipality or the municipal corporation free of cost. In the absence of any such power or authority in law an order requiring the owner to transfer the ownership of any land or open space to the planning authority/municipality would be void and hit by Article 300A of the Constitution of India. The open spaces may be required to be kept open for the beneficial use for the plot holders who purchase/hold plots in the layout or for the general public if so authorised by the Rules. Thus though the owner of the land who gets the layout sanctioned continues to be the owner of the land, he would have to hold the land in trust for the plot holders to whom he has sold the plots in the layout. If the land is

> compulsorily acquired he would be entitled to the market value as compensation but he would hold it in trust for all the plot holders in the layout for whose benefit the open space was held. The plot holders may exercise the right and avail the remedy, if any, available to them against the respondent claimant for a share in the compensation in accordance with law. Subject to decision of such claim, if any, made by plot holders in accordance with law, the claimant would be entitled to receive the compensation equivalent to the market value at the first instance.”

18) In the aforesaid judgments, the Division Bench has relied upon the judgment of the Hon'ble Apex court in the case of *Pandit Chet Ram Vashista Vs. Municipal Corporation, Delhi – (1995) 1 SCC 47* . In the said matter, though the provisions under Delhi Municipal Corporation Act, were under consideration, the ratio laid down in the said judgment would squarely apply to the facts of the present case. In the said matter, the Hon'ble Apex court was required to consider, - whether space reserved in a layout plan for public purpose such as park, school etc. would

vest in the municipal corporation free of cost. The Supreme Court held that in the absence of any provision in the relevant Act providing for vesting of any land reserved for an open space or park in the Municipal Corporation the land would not so vest.

19) In view of the law laid down, vide the aforesaid judgments, even it is not permissible for the Municipal Council or the Corporation to put a condition while sanctioning the layout to handover the spaces left open in the said layout for the roads, garden etc free of costs or at the nominal compensation of Rupee 1/-. In the present matter, the claimants are on a better footing.

20) As noted herein above, Rule 14:3 of D.C.Rules, pressed into service by the Corporation does not relate to the space reserved for Development Plan road. It is thus evident that even though the Development Plan road is

shown in the sanctioned layout, possession of the same could not have been taken by the Municipal Council without paying the adequate compensation therefor to the claimants. In fact, the Municipal Council has rightly passed a Resolution on 15th March, 1984 to acquire the subject lands and to pay the claimants the market value of the said lands by way of compensation. The Town Planner, who was examined as the witness by the Municipal Council, has also unambiguously admitted that Rule 14:3 does not relate to the Development Plan road. Moreover, when the subject lands were acquired under Section 126(4) of the MRTP Act, the Municipal Council was bound to pay the market value of the acquired lands.

21) For the reasons, as aforesaid, I do not find any merit in the contention raised by the learned Sr. Counsel that the Reference Court committed an error in holding that the claimants were entitled for compensation for the lands acquired for the Development Plan road at the

market value prevailing on the date of acquisition of the said lands. I reiterate that the Reference Court has, by giving elaborate reasons, rightly rejected the contention of the Municipal Council that the claimants were not entitled for any more compensation than nominal compensation of Rupee 1/- paid to them towards acquisition of their lands for the Development Plan road.

22) The next question, which now falls for my consideration is, whether the market value, as has been determined by the Reference Court of the acquired lands @ Rs.25/- per sq.ft. and accordingly the amount of compensation so awarded whether can be sustained ?

23) It has been vehemently argued by Shri V.D.Hon, learned Sr. Counsel appearing for the Municipal Council, that in view of the sale deeds placed on record by the Municipal Council, evidencing that the claimants themselves had sold

the plots from the same layout at the average r ate of Rs.10/- per sq.ft., the Reference Court could not have determined the market value of the acquired lands at the rate more than Rs.10/- per sq.ft.

24) Per contra, it has been argued by Shri PK Joshi, learned Counsel appearing for the claimants that in LAR No.246/1988 decided on 22.12.1995 pertaining to the acquisition of lands for south north Development Plan road, the Reference Court has determined the market value @ Rs.20/- per sq.ft. of the said lands. The learned Counsel submits that the lands, which are the subject matter of the present appeal are adjacent to the lands, which were involved in LAR No.246/1988 and as such, the market value determined by the Reference Court of the acquired land @ Rs.25/- per sq.ft. is just and reasonable and no interference is required in the amount of compensation so determined by the Reference Court.

25) The material on record shows that in order to substantiate the claim raised by them, the claimants had examined three witnesses and one of the claimants also had testified before the court.

26) It has come on record through evidence of PW 1 – Govind Bhandari that the plot admeasuring 20 x 70 ft. was sold by one Shantadevi Khatod to Madan Gopal Malu by registered sale deed executed on 27.11.1975 for the consideration of Rs.15,862/-, i.e. @ Rs. 11.25/- per sq.ft. In the evidence of PW 1, the said said sale deed was exhibited as Exh.27.

27) PW 2 – Shriniwas Kondekar was examined by the claimants to prove the sale transaction in between Lalitkumar Shaha and Manjulaben Shaha with Ranchoddas Hukka. As has been deposed by the said witness, a plot admeasuring 50 x 105 sq.ft. was sold for the consideration of Rs.80,000/- i.e. @ Rs.15/- per sq.ft.

28) PW 3 – Bhalchandra Mankari deposed about the sale of the plot admeasuring 52 x 45 ft. for the consideration of Rs.4,84,211/- in February 1989.

29) The learned Counsel for the claimants submitted that even the Town Planner has admitted that the prices of the plots near the acquired land, were Rs.15/- to Rs.20/- per sq.ft. The learned Counsel submitted that ample evidence has come on record showing that the area surrounding the acquired lands was fully developed. As such, according to the learned Counsel, the Reference Court has rightly determined the market value of the acquired lands @ Rs.25/- per sq.ft. and no interference was, therefore, warranted in the amount of compensation determined by the Reference Court on the basis of the said market value.

30) I have carefully perused the evidence adduced on the point of market value to be

determined of the acquired lands. As noted herein above, one of the claimants viz. Shashikant Majage deposed before the Reference Court and three more witnesses were also examined by the claimants in order to substantiate their claim. The claimants had claimed the compensation @ Rs.50/- per sq.ft. and according to them, it was the existing market rate of the acquired lands on the date of acquisition. However, it is apparently noticed that the claimants have failed in bringing on record any cogent and sufficient evidence to show that the market value of the acquired land on the date of acquisition was Rs.50/- per sq.ft. The land, which was the subject matter of Exh.27, was sold for consideration of Rs.11.25 ps. per sq.ft. in the year 1975. Even if the market value of the said land is notionally enhanced, giving increase in the rate, at 10% every year, its market value on the date of acquisition could be at the most,Rs.25/- per sq.ft.

31) In so far as the sale transaction brought on record through evidence of PW 3 – Bhalchandra is concerned, the same was not liable to be considered in view of the fact that it was pertaining to the year 1989, i.e. post notification period.

32) It would also be necessary to consider the documentary evidence placed on record by the acquiring body. The acquiring body has placed on record the certified copies of six sale instances. It is true that the acquiring body did not examine any witness on the said sale instances, however, in his cross-examination, claimant No.2 – Shashikant has admitted some of the said sale instances. As has been admitted by the said witness, he had sold a plot admeasuring 50 x 40 ft. for the consideration of Rs.7,000/- on 29.7.1985 to one Bhagwan Nalapure. The said witness has also admitted that he has sold one plot admeasuring 15 x 18 mtr. for the value of Rs.6,000/- to one Laxmikant Shah on 3.1.1985. He

has further admitted that he sold one plot admeasuring 100 x 50 ft. for Rs.10,000/- to Dr.Bhatambrekar on 6.10.1983. he also admitted that he sold plot admeasuring 60 x 25 ft. on 17.2.1983 to one Prakash Junze. Perusal of the aforesaid sale-deeds reveal that the concerned plots were from Survey Nos.148 and 149, from which the subject land was acquired for Development Plan road. The learned Reference Court has referred to the said sale-deeds and has also observed that they can be considered for deciding the prevailing market rate of the acquired land in 1985. However, it is discernible that the said sale instances have not been appropriately considered by the Reference Court while determining the market value of the acquired lands.

33) As noted herein above, in LAR No. 246/1988 decided on 22nd December, 1995, the Reference Court has determined the market value of the lands, which were the subject matter of

the said Reference Application @ Rs.20/- per sq.ft. The lands involved in the said Reference Application were acquired for south north Development Plan road vide the notification under Section 126(4) of the MRTP Act issued on 11.9.1980. In the LAR No.327/1990 decided on 28.11.1995 pertaining to the lands acquired for Ring road, the Reference Court had determined the market value at Rs.33/- per sq.ft. The said lands were acquired vide notification issued in January 1984.

34) No doubt, the evidence, as aforesaid, brought on record, by the claimants is certainly liable to be considered while determining the market value of the acquired lands, however, at the same time, the sale-deeds placed on record by the respondents, some of which are admitted by the claimants, cannot be kept out of considerations. The sale-deeds placed on record by the Municipal Council pertain to the plots sold by the claimants themselves. For the said

plots, the consideration received is averagely Rs.10/- per sq.ft. Moreover, some of the said plots were sold in the year 1985. In the circumstances, the market value as has been determined by the Reference Court @ Rs.25/- per sq.ft. apparently appears on higher side.

35) It is undisputed that the acquired lands are surrounded by fully developed area. As admitted by the town planner, the market rate of the acquired lands is around Rs.15/- to Rs.20/- per sq.feet. As has come on record, the market value of the lands acquired for North-South D.P. Road was determined by the Reference Court at the rate of Rs.20/- per sq.feet; whereas, for the lands acquired for Ring Road, the market value was determined at the rate of Rs.33/- per sq.feet. Acquisition for North-South D.P. road and Ring Road were made prior to the acquisition for Development Plan Kawa Road. The claimants have placed on record the sale instances, according to which, as was submitted by the

learned Counsel for the claimants, the market rate of the acquired lands on the date of their acquisition, comes to around Rs.30 per sq.feet. However, while considering the evidence, as aforesaid, it cannot be ignored or overlooked that the claimants themselves had sold some of the plots from the same survey number at the average price of Rs.10 per sq.feet. In this context, it was urged by the learned Senior Counsel that the market rate of the acquired lands could not have been determined by the reference Court at the rate more than Rs.10/- per sq.feet.

36) After having considered the entire aforesaid evidence and the submissions made by the learned counsel appearing for the respective parties, though I am convinced that the market value, as has been determined by the Reference Court at the rate of Rs.25/- per sq.feet, is on higher side, the contention of the learned Senior Counsel that the market value shall be determined

at the rate of RS.10/- per sq.feet, also cannot be accepted. It need not be stated that a person, who loses his property forever must get just and fair compensation in lieu of that. There are several modes of determining the market value of the land to be acquired. The market value of the land under acquisition has to be determined as on the crucial date of publication of the notification for its acquisition. The determination has to be made standing on the date line of valuation as if valuer is a hypothetical purchaser willing to purchase the land from the open market and is prepared to pay a reasonable price as on that day. It has also to be assumed that the vendor is willing to sell the land at a reasonable price. In doing so, the Court has to correlate the market value reflected in the most comparable sale instances, which provide the index of market value. In certain cases, the Court may also consider the market value, as has been determined, of any land in proximity by any Court, which has attained the finality.

37) Evaluating the evidence on record in light of the guidelines, as aforesaid, I determine the market vale of the acquired lands on the date of their acquisition at Rs.15/- per sq.feet. According to me, this will be the reasonably just and fair market value of the acquired lands. I, therefore, hold the claimants entitled to receive the compensation of their acquired lands at the rate of Rs.15/- per sq.feet with all statutory benefits.

38) It is clarified that the plotable area, as has been determined by the reference Court in para 19 of the impugned Judgment, would remain undisturbed. The order passed by the reference Court as about the solatium and interest and the period for which same are made payable, is also maintained as it is. Thus, save and except the modification in the market value from Rs.25/-, as determined by the reference Court, to Rs.15/- per sq.feet, as has been determined by this Court, the other part of the Award is maintained as it

is. The First Appeal thus stands partly allowed in the aforesaid terms. Modified Award be prepared accordingly. Pending Civil Applications, if any, stand disposed of.

39) First Appeal St.No.18449 of 1997 was not pressed by the learned Counsel for the appellants on instruction of the appellants therein. The same, therefore, stands disposed of, since not pressed. The Civil Applications, if any, stand disposed of.

(P.R.BORA)
JUDGE

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